

A review of the court file indicates that as of this date, the Plaintiff has neither filed proof of service nor responded to the Order (ECF No. 22) directing him to submit the required copies to properly effect service. In fact, Plaintiff has not responded to the Court's order in any way. Additionally, service paperwork was sent by the Court to the Plaintiff on September 8, 2015 and October 2, 2015 after the initial paperwork was returned. The second mailing was not returned. As of this date Plaintiff has not

submitted a notice of change of address to the Clerk of Court. Plaintiff is responsible for notifying the court of any change of address. *See* LCvR 5.4(a). Moreover, "[p]apers sent by the Court will be deemed delivered if sent to the last known address given to the Court." *Id.*

As of the date of this order, the deadline for submitting the required copies to properly effect service has expired and the Plaintiff has failed to comply with the Court's Orders. Specifically, he has neither filed proof of service nor provided the required paperwork to complete service.

The undersigned finds that Plaintiff's failure to comply with the Court's Order, in light of the Court's right and responsibility to manage its cases, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents at Arapahoe County Justice Center*, 492 F.3d 1158, 1161 n.2, 1162 (10th Cir. 2007) (*sua sponte* dismissal for failure to comply with Court's orders permitted under federal rules, and court need not follow any particular procedures in dismissing actions without prejudice for failure to comply).

### **RECOMMENDATION**

Based on the foregoing findings, it is recommended that this action be **DISMISSED WITHOUT PREJUDICE** for Plaintiff's failure to comply with this Court's orders, specifically failing to submit the necessary paperwork required for service. Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of Court by **February 22, 2016**, in accordance with 28 U.S.C. § 636 and Fed. R. Civ. P. 72. Plaintiff is further advised that any failure to make timely objection to

this Report and Recommendation waives the right to appellate review of the factual and legal issues addressed herein. *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

This Report and Recommendation **disposes of all issues** referred to the undersigned Magistrate Judge in the captioned matter.

**ENTERED** on February 5, 2016.

  
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SHON T. ERWIN  
UNITED STATES MAGISTRATE JUDGE